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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

15 Cr. 588 (ER)

5 AHMED MOHAMMED EL GAMMAL,

6 Defendant.

7 -----x

New York, N.Y.  
February 10, 2017  
11:30 a.m.

9  
10 Before:

11 HON. EDGARDO RAMOS

District Judge

12  
13 APPEARANCES

14 PREET BHARARA

United States Attorney for the  
Southern District of New York

15 BY: BRENDAN QUIGLEY

16 NEGAR TEKEEI

ANDREW DEFILIPPIS

17 Assistant United States Attorneys

18 SABRINA SHROFF

ANNALISA MIRON

19 Attorneys for Defendant

20 ALSO PRESENT: DAVID DOUBELAY, CJA

H2K7GAMC

(Case called)

(In open court)

MR. QUIGLEY: Good morning, your Honor. Brendan Quigley, Negar Tekeei and Andrew DeFilippis for the United States.

THE COURT: Good morning.

MS. SHROFF: Good morning, your Honor. Federal Defenders of New York by Sabrina Shroff and Annalisa Miron, for Mr. Gammal, who is present in court. Mr. Habib is on leave and is not able to make it.

THE COURT: Very well. Good morning to you all. This matter is on for a status conference. I called this conference because I received a letter from Mr. El Gammal following I think it's last week's verdict indicating that his relationship with counsel was no longer a fruitful one and that he wished to change counsel. I provided a copy of that letter to Federal Defenders.

So, let me turn to you in the first instance, Ms. Shroff. Is there anything that you wish to put on the record in open court concerning Mr. El Gammal's request?

MS. SHROFF: Your Honor, we ask the court most respectfully to grant Mr. El Gammal's request and replace us as counsel of record.

THE COURT: Well, it is my general practice that any time there is a request to change counsel, and both the

H2K7GAMC

1 defendant and counsel express to the court the view that the  
2 relationship is irretrievably broken, that I grant the request.

3 My only hesitation in this instance -- and I may wish  
4 to speak with counsel and Mr. El Gammal ex parte about this --  
5 is that this case involves a huge amount of discovery, as we  
6 all know -- tens of thousands, if not hundreds of thousands of  
7 pages -- which counsel had to come up to speed on in order to  
8 prepare adequately for trial.

9 The resources that the Federal Defenders provided in  
10 Mr. El Gammal's case were substantial: The three lawyers I  
11 counted, no less than two paralegals -- there may have been a  
12 third -- working computers. There were two federal defender  
13 investigators that worked on the case and that testified at  
14 trial. There were just a tremendous level of resources that  
15 were provided, and essentially we would lose the benefit of  
16 that knowledge.

17 Someone would have to come in obviously and come up to  
18 speed on all of the documents and all of the discovery that was  
19 provided. Someone would have to come in and familiarize  
20 themselves not only with the Rule 16 discovery, the 3500  
21 material, the Jencks Act information, the Brady information,  
22 but also the classified information that was generated in this  
23 case. That person would then have to come up to speed on the  
24 trial of this case. There were substantial motions that were  
25 made prior to the trial. There were very hotly contested

H2K7GAMC

1 issues during the trial.

2 The individual would have to figure out which amongst  
3 those rulings and what of the evidence is appropriate to  
4 challenge on a post-motion or a post-trial motion.

5 And I say that, one, to sort of highlight the  
6 difficulties that we face if we were to change counsel now but  
7 also to impress upon Mr. El Gammal the timing that's involved.

8 My guess is that any lawyer coming into this case now,  
9 given our current posture, would need arguably several months  
10 to come up to speed, figure out what he or she wants to do and  
11 then make a motion or not, or go directly to sentencing or not.  
12 All of which is to say that it could be some time. And I don't  
13 want you to respond or react, but I'm just saying that it could  
14 be some time before you are even sentenced and have the  
15 opportunity to have your case reviewed by the Second Circuit  
16 Court of Appeals, if you and your lawyer believe that is the  
17 appropriate way to go.

18 So that's my concern, and I don't say this in order to  
19 talk you out of anything that you are bent on doing, but it may  
20 be a consideration that you believe is important.

21 So, with that, what I'd like to do is to speak with  
22 Mr. El Gammal and his attorneys ex parte and then come back to  
23 the government.

24 Well, let me ask, Mr. Quigley, does the government  
25 have a view?

H2K7GAMC

1 MR. QUIGLEY: Your Honor, we take no position on the  
2 request.

3 THE COURT: Very well. There was a young lady who  
4 just walked into the courtroom, and I don't know if she is  
5 affiliated with either of the parties?

6 UNIDENTIFIED SPEAKER: I'm with the Federal Defenders,  
7 and I'm here on the next matter, your Honor.

8 THE COURT: OK. So why don't we do this. Why don't  
9 we ask the government to leave so that we can stay in the  
10 courtroom.

11 (Ex parte discussion takes place on pages 6 and 7)

12 (Continued on next page)

H2K7GAMC

(Government present)

THE COURT: The record should reflect that Mr. David Doubelay is in the courtroom; he is the CJA attorney on duty for today. I am relieving Federal Defenders from their representation of Mr. El Gammal. I will appoint Mr. Doubelay to represent Mr. El Gammal. I had an informal conversation with counsel before, just to determine whether or not Mr. Doubelay was cleared in order to be able to review classified documents. He is not cleared.

I had a conversation with Mr. Jerry Tritz of the Second Circuit -- and I forget exactly what his title is, but he has a handle for the purse, as it were, concerning CJA attorneys. And I had a conversation with Tracy Miller, who is the clerk responsible for scheduling CJA attorneys. And what my intention is is to, in addition to Mr. Doubelay, assign a second lawyer to represent Mr. El Gammal who is cleared, so that the process of reviewing classified documents can begin fairly immediately.

And I will also ask that Mr. Doubelay be cleared, that the process of him getting cleared be commenced. And with that, is there anything else that we need to do, Ms. Shroff?

MS. SHROFF: Yes, your Honor. I just wanted to make sure that Mr. Gammal is aware that we have, of course, the discovery on a hard drive. By discovery I include discovery, trial transcripts, and as much information as we had as his

H2K7GAMC

1 counsel. I have it on a hard drive for Mr. Doubelay. It goes  
2 without saying that the Federal Defenders of New York will of  
3 course provide to Mr. Doubelay any information or any other  
4 documents that he wishes for.

5 THE COURT: Very well.

6 MS. SHROFF: The transfer will be as smooth as it can  
7 possibly be.

8 THE COURT: I don't doubt that it will be. With that  
9 I would like to thank the Federal Defenders for your  
10 professionalism throughout this process. And unless there is  
11 anything else -- Mr. Quigley?

12 MR. QUIGLEY: Your Honor, I assume the current  
13 post-trial motion schedule will be held in abeyance or  
14 canceled.

15 THE COURT: It will be held in abeyance. I will  
16 assign someone to work with Mr. Doubelay. And until I hear  
17 from them -- and I will ask them to report to me within let's  
18 say two weeks, Mr. Doubelay --

19 MR. DOUBELAY: Yes, Judge.

20 THE COURT: -- as to how it is you want to proceed.

21 MR. QUIGLEY: Thank you, your Honor.

22 THE COURT: OK.

23 THE DEFENDANT: Thank you, your Honor.

24 THE COURT: We are adjourned. Thank you all.

25 (Adjourned)